

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ERNIE HINES,

Plaintiff,

-v-

ROC-A-FELLA RECORDS, INC. et al.,
Defendants.

19-CV-4587 (JPO)

ORDER

J. PAUL OETKEN, District Judge:

On April 16, 2020, the Court filed an Opinion and Order granting Defendants' motions to dismiss and granting Plaintiff leave to file an amended complaint within sixty days. (Dkt. No. 94.) The Opinion and Order directed that “[f]ailure to comply with this deadline will result in dismissal with prejudice.” (Dkt. No. 94 at 10.) Plaintiff has not filed an amended complaint within the requisite time period.

Defendants have filed motions for entry of dismissal with prejudice. (Dkt Nos. 108, 111.) Defendants include Shawn Carter and Timothy Mosley, who obtained dismissal for insufficient service of process. (Dkt. No. 94 at 6–7.) A dismissal for insufficient service of process, however, is “without prejudice.” Fed. R. Civ. P. 4(m).

As for the other Defendants, it is true that Plaintiff did not comply with the sixty-day deadline imposed by the Opinion and Order. Plaintiff, however, informed the Court of his intention to proceed against the Defendants in a new lawsuit. (Dkt. Nos. 104, 105.) And the new lawsuit was filed within sixty days of the Court’s Opinion and order. (*See Hines v. EMI April Music Inc.*, No. 20-CV-3535.)

The Court adjudges Plaintiff’s conduct to be sufficiently compliant with its Opinion and order. *See* Fed. R. Civ. P. 1 (directing the courts “to secure the just, speedy, and inexpensive

determination of every action and proceeding"). Accordingly, the Court declines to dismiss the complaint with prejudice. It is dismissed without prejudice.

The Clerk of Court is directed to close the motions at Docket Numbers 108 and 111, and to close this case.

SO ORDERED.

Dated: July 1, 2020
New York, New York



J. PAUL OETKEN
United States District Judge